

STATE OF MICHIGAN  
COURT OF APPEALS

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GREGORY COLEMAN,

Plaintiff-Appellant,

v

DEXTER FASTENER TECHNOLOGIES, INC.,  
d/b/a DEXTECH,

Defendant-Appellee.

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UNPUBLISHED  
September 22, 2005

No. 253074  
Washtenaw Circuit Court  
LC No. 02-000974-CK

Before: Sawyer, P.J., and Talbot and Borrello, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendant summary disposition in this employment discrimination action. We affirm.

Plaintiff argues that summary disposition under MCR 2.116(c)(10) was inappropriate because there is a genuine issue of material fact regarding whether plaintiff suffers from a disability as defined by MCL 37.1103 and whether that disability is related to his ability to perform the essential activities of his job. We disagree.

A trial court's decision on a motion for summary disposition is reviewed de novo. *Dressel v Ameribank*, 468 Mich 557, 561; 664 NW2d 151 (2003). Summary disposition under MCR 2.116(C)(10) is appropriate if "there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law." The trial court must view the evidence presented in a light most favorable to the non-moving party and test whether there is factual support for the claim. *Universal Underwriters Group v Allstate Ins Co*, 246 Mich App 713, 720; 635 NW2d 52 (2001). When deciding the motion the trial court may not make findings of fact or weigh credibility. *In re Handelsman*, 266 Mich App 433, 437; 702 NW2d 641 (2005).

Plaintiff's claim was brought under the Persons with Disabilities Civil Rights Act, MCL 37.1101 *et seq.*

To establish a prima facie case of discrimination under the statute, a plaintiff must show (1) that he is 'disabled' as defined by the statute, (2) the disability is unrelated to plaintiff's ability to perform the duties of a particular job, and (3) the

plaintiff has been discriminated against in one of the ways set forth in the statute.  
[*Chiles v Machine Shop, Inc*, 238 Mich App 462, 473; 606 NW2d 398 (1999).]

When we consider whether plaintiff is disabled within the meaning of the statute we must (1) consider whether plaintiff has a physical impairment, (2) identify the life activity on which plaintiff relies, and (3) determine whether the life activity constitutes a “major life activity” under the statute. *Chiles, supra* at 474, citing *Bragdon v Abbot*, 524 US 624, 631; 118 S Ct 2196; 141 L Ed 2d 540 (1998) (applying the test under the federal ADA to Michigan’s PWDCRA). The first step in this analysis has been satisfied. The parties do not dispute that plaintiff suffers from Crohn’s disease and has had both of his hips replaced as a result, and thus, has a physical impairment. Plaintiff asserts that his ability to walk has been affected by his impairment. Major life activities include walking and other activities, such as caring for oneself, seeing, hearing, speaking, breathing, learning, and working. *Steven v Inland Waters, Inc*, 220 Mich App 212, 217; 559 NW2d 61 (1996) (citations omitted). Plaintiff has, therefore, identified a major life activity on which he relies, satisfying the second element.

The third element is at issue in the present case. When we determine whether a major life activity has been substantially affected we consider “(1) the nature and severity of the impairment, (2) its duration or expected duration, and (3) its permanent or expected permanent long term effect.” *Stevens, supra* at 218 (citations omitted). “[A] plaintiff seeking to recover under the statute has the burden of providing some evidence from which a factfinder could conclude that her disability caused substantial limitations when compared to the average person.” *Lown v JJ Eaton Place*, 235 Mich App 721, 731; 598 NW2d 633 (1999), citing *Snow v Ridgeview Medical Center*, 128 F3d 1201, 1207 (CA 8, 1997). Plaintiff in the present case presented no evidence that the impairment substantially limits a major life activity. When a party moves for summary disposition under MCR 2.116(C)(10), the adverse party must submit evidence to create an issue of fact and cannot rest on mere allegations. MCR 2.116(G)(4). Plaintiff testified that he hunts, fishes, socializes, works out, and has worked at other positions without incident. He also testified that his disability would not interfere with his ability to work for defendant, which would require him to walk frequently for eight hours. Although plaintiff asserted that his ability to walk has been affected, he presented no evidence to support his assertion. Therefore, plaintiff has not created an issue of fact regarding whether he is disabled within the meaning of the statute.

The trial court in the present case concluded that defendant had not created an issue of fact regarding whether the disability was unrelated to the essential activities of his employment. We find it unnecessary to address that issue, having determined that plaintiff has not created an issue of fact regarding whether he is disabled within the meaning of the statute. Where the trial court reached the right result, albeit for the wrong reason, we will affirm the trial court’s decision. *Taylor v. Laban*, 241 Mich App 449, 458; 616 NW2d 229 (2000).

Affirmed.

/s/ David H. Sawyer  
/s/ Michael J. Talbot  
/s/ Stephen L. Borrello